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HOUSE BILL 1827 By
Walley

SENATE BILL 1925
By Person

AN ACT to amend Tennessee Code Annotated, Title 3; Title 4; Title 8; Title 12; Title 33; Title 36; Title 37; Title 39; Title 40; Title 41; Title 45; Title 49; Title 53; Title 55; Title 56; Title 57; Title 63; Title 68 and Title 71, to transfer the functions, duties, responsibilities, and authority of the Department of Mental Health and Mental Retardation to the Department of Health.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 3-15-506, is amended by deleting the words and punctuation ", the department of mental health and mental retardation" and by substituting therefor the words and punctuation "the designee of the commissioner of the department of health who shall be knowledgeable in mental health and mental retardation matters,".

SECTION 2. Tennessee Code Annotated, Section 4-3-101, is amended by deleting subsection (15) and by appropriately renumbering the subsequent subsections.

SECTION 3. Tennessee Code Annotated, Section 4-3-104, is amended by deleting subsection (h) in its entirety and by renumbering the remaining subsections appropriately.

SECTION 4. Tennessee Code Annotated, Section 4-3-111, is amended by deleting subsection (15) and by appropriately renumbering the subsequent subsections.

SECTION 5. Tennessee Code Annotated Title 4, Chapter 3, Part 16, is deleted.

SECTION 6. Tennessee Code Annotated, Section 4-3-1803, is amended by adding the following as new subsections and by renumbering the remaining subsections appropriately.

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(1) Promote, protect, and restore the health of the citizens of the state by facilitating access to high quality preventive and primary care services;

(2) Assure the availability of a comprehensive array of quality prevention, treatment, and habilitative services and supports based on the needs and choices of individuals with mental illness, emotional disturbance, and/or developmental disabilities.

SECTION 7. Tennessee Code Annotated, Section 4-29-219, is amended by deleting subsection (a)(25) and by appropriately renumbering the subsections thereafter.

SECTION 8. Tennessee Code Annotated, Section 4-31-703, is amended by deleting subsection (1) and substituting instead the following:

(1) "Commissioner" means the commissioner of health;

SECTION 9. Tennessee Code Annotated, Section 4-31-703, is further amended by deleting subsection (3) and by substituting instead the following:

(3) "Department" means the department of health;

SECTION 10. Tennessee Code Annotated 4-31-706, is amended by deleting subsection (c)(1) and substituting instead the following:

(c)(1) At the end of each calendar year, the authority shall certify to the governor and the commissioner of health the amount of deficiency, if any, in the debt service reserve account for bonds and notes issued pursuant to this part to facilities licensed to provide mental health or mental retardation services.

SECTION 11. Tennessee Code Annotated, Section 4-31-711, is amended by deleting the words "mental health and mental retardation" in subsections (a) and (b) and by substituting instead the words "health" in each instance.

SECTION 12. Tennessee Code Annotated, Section 8-42-101, is amended by deleting the first sentence of subsection (3)(D) in its entirety; by deleting the words "department of mental health and mental retardation's" and the words "mental health and mental retardation" in the second sentence of subsection (3)(D) and by substituting instead the words "department of

health's" and "health" respectively in each instance; and by deleting the word "further" in the second sentence of subsection (3)(D).

SECTION 13. Tennessee Coded Annotated, Section 12-2-117, is amended by deleting the words "department of mental health and mental retardation" in subsection (a) and by substituting instead the words "department of health".

SECTION 14. Tennessee Code Annotated, Section 12-4-330, is amended by deleting the words "mental health and mental retardation" in subsection (a)(1) and by substituting therefor the word "health".

SECTION 15. Tennessee Code Annotated, Section 33-1-101, is amended by deleting subsection (3) and by substituting the following therefor:

(3) "Commissioner" means commissioner of health;

SECTION 16. Tennessee Code Annotated, Section 33-1-101, is further amended by deleting subsection (5) and by substituting the following therefor:

(5) "Department" means department of health;

SECTION 17. Tennessee Code Annotated, Section 33-1-101, is further amended by deleting the words "mental health and mental retardation" in subsection (6) and by substituting instead the word "health".

SECTION 18. Tennessee Code Annotated, Section 33-1-101, is further amended by deleting the words "under the supervision of the department of mental health and mental retardation" in subsection (9) and by substituting instead the words "operated by the department of health".

SECTION 19. Tennessee Code Annotated, Section 33-1-101, is further amended by deleting the words "mental health and mental retardation" wherever they appear in subsection (19) and by substituting therefor the word "health".

SECTION 20. Tennessee Code Annotated, Section 33-1-201, is amended by deleting from the first sentence of subsection (a) the language "mental health and mental retardation as created by SECTION 4-3-1601" and substituting therefor the following:

health as created by Section 4-3-1801

SECTION 21. Tennessee Code Annotated, Section 33-1-201, is further amended by deleting the words "mental health and mental retardation" in subsection (c) and by substituting instead the word "health".

SECTION 22. Tennessee Code Annotated, Section 33-1-201, is further amended by deleting the words "mental health and mental retardation" in subsection (d) and by substituting instead the word "health".

SECTION 23. Tennessee Code Annotated, Section 33-1-201, is further amended by deleting the words "mental health and mental retardation" in subsection (e) and by substituting therefor the word "health".

SECTION 24. Tennessee Code Annotated, Section 33-1-202, is amended by deleting the words "mental health and mental retardation" in subsection (a) and by substituting therefor the word "health".

SECTION 25. Tennessee Code Annotated, Section 33-1-202, is further amended by deleting the words "by the department of mental health and mental retardation" in subsection (c)(1) and by substituting therefor the words "under this title".

SECTION 26. Tennessee Code Annotated, Section 33-1-203, is amended by deleting the words "The commissioner of the department of mental health and mental retardation has the following powers and duties in addition to such other powers and duties as may be specifically provided by law in this title or elsewhere" in the first sentence and by substituting instead the following:

The commissioner of the department of health has the following powers and duties in addition to such other powers and duties provided in title 68

SECTION 27. Tennessee Code Annotated, Section 33-1-204(c), is deleted in its entirety.

SECTION 28. Tennessee Code Annotated, Section 33-1-205, is amended by deleting the section in its entirety and by moving subsections one (1) through five (5) to Tennessee Code Annotated, Section 33-1-203 and renumbering appropriately.

SECTION 29. Tennessee Code Annotated, Section 33-1-207, is amended by deleting subsection (a) in its entirety and by redesignating the remaining subsections appropriately.

SECTION 30. Tennessee Code Annotated, Section 33-1-208, is amended by deleting the words "mental health and mental retardation" in subsections (a), (b), and (c) and by substituting instead the word "health" in each instance.

SECTION 31. Tennessee Code Annotated Title 33, Chapter 1, Part 2, is amended by adding the following new section.

A facility or program licensed under title 33, chapter 2, part 5 must provide for continuity of care for its service recipients, if it ceases to provide mental health or mental retardation services, in part by providing access to records. "Records" in this context has the same meaning as "hospital records" in title 68, chapter 121, part 3. Such access may be provided by one or more of the following methods:

- (1) transferring the records at the direction of the recipient of service, if that person has capacity to consent to such transfer; or to the conservator, guardian of the recipient of service, or attorney-in-fact of the recipient of service under a durable power of attorney;
- (2) transferring the records to another provider of service who is willing to provide services to the person; or
- (3) transferring authority over the records to the department of health, which must preserve the integrity of the records and may transfer any records to any suitable provider of service.

The facility or the program is not obligated to transfer the records to the recipient of service if the records note that disclosure of the records to the recipient of service would potentially harm the recipient of service.

SECTION 32. Tennessee Code Annotated, Section 33-1-301, is amended by deleting the section in its entirety and by substituting instead the following:

(a) In order to advise and evaluate the department of health on matters of mental retardation and to better acquaint the public with the needs and activities of the department pertaining to mental retardation services, there is hereby created a developmental services council to be composed of twelve (12) members who shall be knowledgeable in matters of mental retardation.

(b)(1) The governor, the commissioner of health, the speaker of the senate and the speaker of the house of representatives shall be ex officio members of such council.

(2) The remaining eight (8) members, not more than five (5) of whom shall be of the same political party, shall be appointed by the governor.

(3) State officials shall be eligible for appointment by the governor, but not more than three (3) state officials shall serve on the council at the same time.

(c) The members of such council shall receive no compensation, but shall receive their actual traveling expenses for attending meetings of the council. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general.

(d) The governor shall be chair of the council and the commissioner of health shall be the secretary. The governor shall designate a member of the council to serve as vice chair.

(e) The council shall meet annually at a place to be designated by the chair and may meet more often upon the call of the chair or of a majority of the members.

(f) The initial members of the developmental services council shall be designated from the members of the former board of trustees for the department of mental health and mental retardation, plus sufficient additional appointees, if needed, to form the full council. The initial term of office on the council for the members who formerly served on the board of trustees shall be the unexpired term of their individual appointments to that board. The initial term of any new appointees shall be three (3) years. After the initial appointments, the term of any appointment to the council may be adjusted to create staggered terms, so that four appointments expire each successive year, provided that notice of the adjustment is given at the time of appointment.

(g) Members may be removed upon their failure to attend at least one half (1/2) of the scheduled meetings in any twelve (12) month period.

SECTION 33. Tennessee Code Annotated, Section 33-1-302, is amended by deleting the section in its entirety and by substituting instead the following:

(a) It shall be the duty of the developmental services council to advise the commissioner of the department of health concerning the formulation of general policies pertaining to facilities and the provision of mental retardation services, to recommend to the general assembly appropriate legislation for financial aid for such services and to publicize generally the status of mental retardation services in this state and related needs.

(b) The council in conjunction with the commissioner shall report biennially to the governor regarding mental retardation programs and facilities and shall furnish copies of such reports to the general assembly with the recommendations for legislation. Other reports may be made to the governor and to the general assembly whenever in the judgment of the council such action is appropriate.

SECTION 34. Tennessee Code Annotated, Section 33-1-303, is amended by deleting the section in its entirety.

SECTION 35. Tennessee Code Annotated, Title 33, Chapter 1, is further amended by adding the following as a new Part 4, Section 1:

(a) In order to advise and evaluate the department of health on matters of mental health and to better acquaint the public with the needs and activities of the department pertaining to mental health services, there is hereby created a mental health to be composed of twelve (12) members who shall be knowledgeable in matters of mental health.

(b)(1) The governor, the commissioner of health, the speaker of the senate and the speaker of the house of representatives shall be ex officio members of such council.

(2) The remaining eight (8) members, not more than six (6) of whom shall be of the same political party, shall be appointed by the governor.

(3) State officials shall be eligible for appointment by the governor, but not more than three (3) state officials shall serve on the council at the same time.

(c) The members of such council shall receive no compensation, but shall receive their actual traveling expenses for attending meetings of the council. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general.

(d) The governor shall be chair of the council and the commissioner of health shall be the secretary. The governor shall appoint a member of the council to serve as vice chair.

(e) The council shall meet annually at a place to be designated by the chair and may meet more often upon the call of the chair or of a majority of the members.

(f) The initial members of the mental health council shall be designated from the members of the former board of trustees for the department of mental health and mental retardation, plus sufficient additional appointees, if needed, to form the full council. The

initial term of office on the council for the members who formerly served on the board of trustees shall be the unexpired term of their individual appointments to that board. The initial term of any new appointees shall be three (3) years. After the initial appointments, the term of any appointment to the council may be adjusted to create staggered terms, so that four appointments expire each successive year, provided that notice of the adjustment is given at the time of appointment.

(g) Members may be removed upon their failure to attend at least one half (1/2) of the scheduled meetings in any twelve (12) month period.

SECTION 36. Tennessee Code Annotated Title 33, Chapter 1 is further amended by adding the following as a new Part 4, Section 2:

(a) It shall be the duty of the mental health council to advise the commissioner of the department of health concerning the formulation of general policies to be followed in the provision of mental health services, to recommend to the general assembly appropriate legislation for financial aid for mental health programs and to publicize generally the status of mental health services in this state and related needs.

(b) The council in conjunction with the commissioner shall report biennially to the governor regarding mental health programs and shall furnish copies of such reports to the general assembly with the recommendations for legislation. Other reports may be made to the governor and to the general assembly whenever in the judgment of the council such action is appropriate.

(c) It shall also be the duty of the council to review and advise on the activities involved in the treatment or rehabilitation of drug and alcohol dependence, to advise the commissioner in carrying out such programs, to advise the commissioner on matters related to alcohol and drug dependence, and to better acquaint the public with the needs and activities of these programs.

SECTION 37. Tennessee Code Annotated, Section 33-2-101, is amended by deleting the language which precedes the colon in subsection (a) and by substituting instead the following:

The following facilities shall be under the authority of the department of health

SECTION 38. Tennessee Code Annotated, Section 33-2-101 is further amended by deleting the words "mental health and mental retardation" in subsection (c) and by substituting instead the word "health".

SECTION 39. Tennessee Code Annotated, Section 33-2-101 is further amended by deleting the words "of the department of mental health and mental retardation" in subsection (c) and by substituting instead the words "created by title 33, chapter 1, part 3".

SECTION 40. Tennessee Code Annotated, Section 33-2-105, is amended by deleting the words "mental health and mental retardation" in subsection (a) and by substituting instead the word "health".

SECTION 41. Tennessee Code Annotated, Section 33-2-107, is amended by deleting the words "mental health and mental retardation" and by substituting therefor the word "health".

SECTION 42. Tennessee Code Annotated, Section 33-2-201, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

To advise the superintendent at each institution and to better acquaint the public with the needs and activities of such institution, there is hereby created a board of trustees for each institution to be composed of eighteen (18) members.

SECTION 43. Tennessee Code Annotated, Section 33-2-201 is further amended by deleting the words "mental health and mental retardation, the appropriate assistant commissioner" in subsection (b)(1) and by substituting instead the following:

health, the commissioner's designee

SECTION 44. Tennessee Code Annotated, Section 33-2-201 is further amended by deleting the words "mental health and mental retardation" in subsection(c) and by substituting instead the word "health".

SECTION 45. Tennessee Code Annotated, Section 33-2-202, is amended by deleting the words "mental health and mental retardation" in subsections (a) and (b) and by substituting instead the word "health" in each instance.

SECTION 46. Tennessee Code Annotated, Section 33-2-202 is further amended by deleting the words "situation of" in subsection (a) and by substituting instead the words "services provided by".

SECTION 47. Tennessee Code Annotated, Section 33-2-311, is amended by deleting the words "mental health and mental retardation" and by substituting instead the word "health".

SECTION 48. Tennessee Code Annotated, Section 33-2-401 is a amended by deleting the words "mental health and mental retardation to provide services" and by substituting instead the words "health to provide services under title 33".

SECTION 49. Tennessee Code Annotated, Section 33-2-502, is amended by deleting subsection (1)(B)(vii)(b) in its entirety and by substituting instead the following:

Satellite hospital, as defined by rules of the department of health, whose primary purpose is the provision of mental health and mental retardation services which satisfy the standards established under this title.

SECTION 50. Tennessee Code Annotated, Section 33-2-503, is amended by deleting the words "mental health and mental retardation" in subsection (a) and by substituting instead the word "health".

SECTION 51. Tennessee Code Annotated, Section 33-3-102, is amended by deleting the words "mental health and mental retardation" in subsection (c) and by substituting instead the word "health".

SECTION 52. Tennessee Code Annotated, Section 33-3-104, is amended by deleting the words "mental health and mental retardation" in subsection (7) and by substituting instead the word "health".

SECTION 53. Tennessee Code Annotated, Section 33-3-107, is amended by deleting the words "under the supervision of the department of mental health and mental retardation" in subsection (a) and by substituting instead the words "licensed under this title".

SECTION 54. Tennessee Code Annotated, Section 33-3-201, is amended by deleting the words "mental health and mental retardation" in subsection (i) and by substituting instead the word "health".

SECTION 55. Tennessee Code Annotated, Section 33-3-202, is amended by deleting the words "mental health and mental retardation " in the second sentence of subsection (a) and by substituting instead the word "health".

SECTION 56. Tennessee Code Annotated, Section 33-3-202 is further amended by deleting subsection (b) in its entirety.

SECTION 57. Tennessee Code Annotated, Section 33-3-301, is amended by deleting the first sentence in subsection (a) and by substituting therefor the following:

The commissioner may authorize the transfer of a person who is lawfully in a facility operated or licensed by the department of health.

SECTION 58. Tennessee Code Annotated, Section 33-3-401, is amended by deleting the words "of the department of mental health and mental retardation" in subsection (a)(2) and by substituting instead the following:

operated by the department of health

SECTION 59. Tennessee Code Annotated, Section 33-3-401 is further amended by deleting the words "mental health and mental retardation" in the first, second, and third sentences in subsection (b)(1) and by substituting instead the word "health" in each instance.

SECTION 60. Tennessee Code Annotated, Section 33-3-402, is amended by deleting the words "mental health and mental retardation" in subsection (a)(2) and by substituting instead the words "operated by the department of health".

SECTION 61. Tennessee Code Annotated, Section 33-3-403, is amended by deleting the words "mental health and mental retardation" in subsection (a)(2) and in subsection (b) and by substituting therefor the word "health" in each instance.

SECTION 62. Tennessee Code Annotated, Section 33-3-404, is amended by deleting the words "mental health and mental retardation shall appoint (3) members" and by substituting instead the following:

health shall appoint (3) members who have expertise in matters of mental health and mental retardation

SECTION 63. Tennessee Code Annotated, Section 33-3-408, is amended by deleting subsection (a) in its entirety and by substituting therefor the following:

Within five (5) days, excluding Saturdays, Sundays, and legal holidays, after any transfer made without objection by the transferee under section 33-3-401 or section 33-3-402, or after any transfer under section 33-3-403, the superintendent of the receiving facility of the department of health shall determine whether the transfer was appropriate under this part. The superintendent's decision shall be based on the advice of a licensed physician.

SECTION 64. Tennessee Code Annotated, Section 33-3-408 is further amended by deleting the words "department of mental health and mental retardation" in subsection (b)(2) and by adding the words "operated by the department of health" after the word "facility".

SECTION 65. Tennessee Code Annotated, Section 33-3-409, is amended by deleting subsection (a) in its entirety and by substituting therefor the following:

Upon the approval of the commissioner of health, if the superintendent of a facility receiving an individual under this part determines more than five (5) days,

excluding Saturdays, Sundays, and legal holidays, after a person has been transferred either that a person no longer meets the standards for a transfer under this part or that residential care and treatment in the facility is no longer advisable or beneficial, then the superintendent shall order the person's return to the department of correction or the department of children's services.

SECTION 66. Tennessee Code Annotated, Section 33-3-410 is deleted in its entirety.

SECTION 67. Tennessee Code Annotated, Section 33-3-411, is amended by deleting the first sentence in subsection (a) and by substituting instead the following:

If an adult transferee under this part runs away from a mental health or mental retardation institution or program and is taken into custody within thirty (30) days after running away, the transferee shall be returned to the custody of the commissioner at a facility designated by the commissioner.

SECTION 68. Tennessee Code Annotated, Section 33-3-411 is further amended by deleting the first sentence in subsection (b) and by substituting therefor the following:

If a minor transferee under this part runs away from a mental health or mental retardation institution or program and is taken into custody within thirty (30) days after running away, the transferee shall be returned to a facility designated by the commissioner of health.

SECTION 69. Tennessee Code Annotated, Section 33-3-412, is amended by deleting subsection (a)(2) in its entirety and by substituting instead the following:

In need of emergency residential care and treatment for that condition which cannot be provided at the youth development center and which can be provided by an appropriate residential program operated by the department of health; the superintendent of the youth development center shall immediately have the minor transferred to a facility designated by the commissioner of the department of health and operated by the department.

SECTION 70. Tennessee Code Annotated, Section 33-3-412 is further amended by deleting the words "mental health and mental retardation" in subsection (b) and by substituting therefor the word "health".

SECTION 71. Tennessee Code Annotated, Section 33-3-502, is amended by deleting the words "mental health and mental retardation" in subsections (b)(2) and (b)(3) and by substituting instead the word "health" in each instance.

SECTION 72. Tennessee Code Annotated, Section 33-3-605, is amended by deleting the words "mental health and mental retardation" in the third sentence and by substituting therefor the word "health".

SECTION 73. Tennessee Code Annotated, Section 33-3-701, is amended by deleting the words "department of mental health and mental retardation".

SECTION 74. Tennessee Code Annotated, Section 33-5-101, is amended by deleting the fifth (5th) sentence in subsection (a) which reads: "The commissioner may delegate responsibility for the review to the assistant commissioner." The following shall be substituted for that sentence.

The commissioner may designate an individual who has expertise in the area of mental retardation to conduct the review and make recommendations to the commissioner who shall make the final determination.

SECTION 75. Tennessee Code Annotated, Section 33-5-101 is further amended by deleting the words "assistant commissioner" in the sixth (6th) and seventh (7th) sentences of subsection (a) and by substituting instead the words "commissioner's designee" in each sentence.

SECTION 76. Tennessee Code Annotated, Section 33-5-105, is amended by deleting the words "mental health and mental retardation" in subsection (a) and by substituting therefor the words "health pursuant to title 33".

SECTION 77. Tennessee Code Annotated, Section 33-5-310, is amended by deleting the words "mental health and mental retardation" in subsection (c) and by substituting the word "health".

SECTION 78. Tennessee Code Annotated, Section 33-5-401, is amended by deleting the words "that the department of mental health and mental retardation, division of mental retardation, has" in subsection (c) and by substituting instead the words "the significance of individuals within the department of health who have knowledge and expertise in mental retardation who have".

SECTION 79. Tennessee Code Annotated, Section 33-5-402, is amended by deleting the words "mental health and mental retardation" in subsection (3) and by substituting instead the word "health".

SECTION 80. Tennessee Code Annotated, Section 33-6-108, is amended by deleting the words "mental health and mental retardation" in subsection (b)(1) and by substituting therefor the word "health".

SECTION 81. Tennessee Code Annotated, Section 33-6-301, is amended by deleting the words "mental health and mental retardation" wherever they appear in subsection (2) and by substituting instead the word "health" in each instance.

SECTION 82. Tennessee Code Annotated, Section 33-6-303, is amended by deleting the words "mental health and mental retardation" in the first sentence and by substituting therefor the word "health".

SECTION 83. Tennessee Code Annotated, Section 33-6-306, is amended by deleting the words "mental health and mental retardation" and by substituting therefor the word "health".

SECTION 84. Tennessee Code Annotated, Section 33-9-202, is amended by deleting the words "mental health and mental retardation, or the commissioner's designee" and by substituting therefor the following:

health, or the commissioner's designee who shall be knowledgeable about
mental health and mental retardation services

SECTION 85. Tennessee Code Annotated, Section 33-10-301, is amended by deleting the words "mental health and mental retardation" in subsection (1) and by substituting instead the words "health and licensed under title 33".

SECTION 86. Tennessee Code Annotated, Section 36-3-106, is amended by deleting the words "department of mental health and mental retardation" in subsection (b) and substituting instead the words "department of health or the department of children's services".

SECTION 87. Tennessee Code Annotated, Section 37-1-128, is amended by deleting the words "designated by the commissioner of mental health and mental retardation" in the second sentence of subsection (e)(1) and by adding the following words and punctuation as a new sentence to follow the second sentence as amended:

Carrying out the court order pertaining to mental retardation shall be the
responsibility of the department of health which shall determine the most appropriate
method for the evaluation.

SECTION 88. Tennessee Code Annotated, Section 37-1-128 is further amended by deleting the words "mental health and mental retardation for such conditions under title 33" in subsection (e)(2)(C) and by substituting instead the words "children's services for such conditions under section 33-3-203".

SECTION 89. Tennessee Code Annotated, Section 37-1-128 is further amended by deleting the words "mental health and mental retardation" in subsection (e)(5) and by substituting instead the word "health".

SECTION 90. Tennessee Code Annotated, Section 37-1-603, is amended by deleting the words "mental health and mental retardation" in subsection (b)(1) and by substituting instead the words "health, who are knowledgeable in matters of mental health and mental retardation".

SECTION 91. Tennessee Code Annotated, Section 37-1-605(b)(1), is amended by deleting the words "by the department of mental health and mental retardation, as defined in section 33-2-502" in subsection (b)(1) and by substituting instead the words "under title 33".

SECTION 92. Tennessee Code Annotated, Section 37-5-106, is amended by deleting the words "except those operated by the department of mental health and mental retardation" in subsection (1) and by substituting instead the following:

except those operated by the department of health for mental health and mental retardation purposes

SECTION 93. Tennessee Code Annotated, Section 37-5-109, is amended by deleting the word "mental health and mental retardation" in the first sentence of subsection (3) and by deleting the words "mental health and mental retardation's" in the second sentence of subsection (3) and by substituting instead respectively the words "health" and "health's".

SECTION 94. Tennessee Code Annotated, Section 39-17-402, is amended by deleting the words "commissioner of mental health and mental retardation" wherever they appear and by substituting instead the words "commissioner of health" and is further amended by deleting the words "upon the agreement of the commissioner of health" wherever they appear.

SECTION 95. Tennessee Code Annotated, Section 39-17-403, is amended by deleting the words "commissioner of mental health and mental retardation" wherever they appear and by substituting instead the words "commissioner of health" and is further amended by deleting the words "upon the agreement of the commissioner of health wherever they appear.

SECTION 96. Tennessee Code Annotated, Section 39-17-405, is amended by deleting the words "commissioner of mental health and mental retardation" wherever they appear and by substituting instead the words "commissioner of health" and is further amended by deleting the words "upon the agreement of the commissioner of health" wherever they appear.

SECTION 97. Tennessee Code Annotated, Section 39-17-407, is amended by deleting the words "commissioner of mental health and mental retardation" wherever they appear and by

substituting instead the words "commissioner of health" and is further amended by deleting the words "upon the agreement of the commissioner of health" wherever they appear.

SECTION 98. Tennessee Code Annotated, Section 39-17-409, is amended by deleting the words "commissioner of mental health and mental retardation" wherever they appear and by substituting instead the words "commissioner of health" and is further amended by deleting the words "upon the agreement of the commissioner of health" wherever they appear.

SECTION 99. Tennessee Code Annotated, Section 39-17-411, is amended by deleting the words "commissioner of mental health and mental retardation" wherever they appear and by substituting instead the words "commissioner of health" and is further amended by deleting the words "upon the agreement of the commissioner of health" wherever they appear.

SECTION 100. Tennessee Code Annotated, Section 39-17-413, is amended by deleting the words "commissioner of mental health and mental retardation" wherever they appear and by substituting instead the words "commissioner of Health" and is further amended by deleting the words "upon the agreement of the commissioner of health" wherever they appear.

SECTION 101. Tennessee Code Annotated, Section 39-17-415, is amended by deleting the words "commissioner of mental health and mental retardation" wherever they appear and by substituting instead the words "commissioner of health" and is further amended by deleting the words "upon the agreement of the commissioner of health" wherever they appear.

SECTION 102. Tennessee Code Annotated, Section 39-17-1352, is amended by deleting the words "by the department of mental health and mental retardation" in the second sentence of subsection (c)(1) and by substituting the words "under Title 33, Chapter 2, Part 5".

SECTION 103. Tennessee Code Annotated, Section 39-17-1352 is further amended by deleting the words "mental health and mental retardation" in the third sentence of subsection (c)(1) and by substituting instead the word "health".

SECTION 104. Tennessee Code Annotated, Section 40-35-205, is amended by deleting the third sentence in subsection (c) in its entirety and by substituting therefor the following:

Upon the court's written determination that the defendant is indigent, the court may direct that any physical or mental examination provided for in this section shall be provided by the department of correction.

SECTION 105. Tennessee Code Annotated, Section 41-1-123, is amended by deleting the words "mental health and mental retardation" in subsection (a) and by substituting instead the word "health".

SECTION 106. Tennessee Code Annotated, Section 41-21-204, is amended by deleting the words "mental health and mental retardation" in subsection (f)(1) and by substituting therefor the word "health".

SECTION 107. Tennessee Code Annotated, Section 41-21-222, is amended by deleting the section in its entirety and by substituting therefor the following:

Upon determination that a person is eligible for parole or release from the penal institutions of the state, the department of correction shall provide a mental examination for such person with the view of determining whether such person is mentally ill or has symptoms of mental illness. The results of such examination shall be reported in writing to the commissioner of correction.

SECTION 108. Tennessee Code Annotated, Section 41-21-235, is amended by deleting the words "mental health and mental retardation" and by substituting therefor the word "health".

SECTION 109. Tennessee Code Annotated, Section 45-2-105, is amended by deleting the words "mental health and mental retardation" in subsection (3) and by substituting instead the word "health".

SECTION 110. Tennessee Code Annotated, Section 49-11-704, is amended by deleting the words "mental health and mental retardation" in subsection (a)(1)(A) and by substituting instead the word "health who shall be knowledgeable in matters of mental health and mental retardation".

SECTION 111. Tennessee Code Annotated, Section 53-11-408, is amended by deleting the words "mental health and mental retardation" wherever they appear in subsection (c) and by substituting instead the word "health" in each instance.

SECTION 112. Tennessee Code Annotated, Section 53-11-411, is amended by deleting the words and punctuation "department of mental health and mental retardation," in subsection (a).

SECTION 113. Tennessee Code Annotated, Section 53-11-411 is further amended by deleting the words and punctuation "department of mental health and mental retardation," in subsection (c).

SECTION 114. Tennessee Code Annotated, Section 55-10-703, is amended by deleting the words "mental health and mental retardation" in the last sentence and by substituting therefor the word "health".

SECTION 115. Tennessee Code Annotated, Section 55-10-706, is amended by deleting the words "mental health and mental retardation" in subsection (b) and by substituting instead the word "health".

SECTION 116. Tennessee Code Annotated, Section 55-50-502, is amended by deleting the words "mental health and mental retardation" wherever they appear in the first and second sentences of subsection (c)(1) and by substituting therefor the word "health" in each instance.

SECTION 117. Tennessee Code Annotated, Section 56-7-2601, is amended by deleting the words "mental health and mental retardation" in subsection (b)(3) and by substituting therefor the word "health".

SECTION 118. Tennessee Code Annotated, Section 56-7-2601, is amended by deleting the words "by the department of mental health and mental retardation" in subsection (d)(2)(B) and by substituting instead the words "licensed under title 33".

SECTION 119. Tennessee Code Annotated, Section 56-7-2602, is amended by deleting the words "mental health and mental retardation" in subsection (b)(2)(B) and by substituting instead the word "health".

SECTION 120. Tennessee Code Annotated, Section 57-5-205, is amended by deleting the words "mental health and mental retardation" in subsection (1) and by substituting therefor the word "health".

SECTION 121. Tennessee Code Annotated, Section 63-7-102, is amended by deleting subsection (10) in its entirety and by substituting therefor the following:

(10) Persons trained according to standards set by the department of health to administer non-injectable medication in programs or residential facilities licensed under title 33.

SECTION 122. Tennessee Code Annotated, Section 63-11-206, is amended by deleting the words "of the department of mental health and mental retardation" in subparagraph (g) and by substituting therefor the words "under title 33, but excluding such services provided under title 68,".

SECTION 123. Tennessee Code Annotated, Section 63-11-208, is amended by deleting the words "under the department of mental health and mental retardation" in subsection (e) and by substituting instead the words "licensed under title 33".

SECTION 124. Tennessee Code Annotated, Section 63-13-301, is amended by deleting the words "mental health and mental retardation" in subsection (b) and by substituting instead the word "health".

SECTION 125. Tennessee Code Annotated, Section 68-1-104, is amended by deleting the words "The commissioner shall" and by substituting instead the following:

In addition to the powers and duties provided under title 33, the commissioner shall

SECTION 126. Tennessee Code Annotated, Section 68-1-107, is amended by adding a new paragraph which shall read as follows:

The commissioner of finance and administration, on approval of the fiscal review committee, may procure indemnity insurance indemnifying full or part-time physicians, licensed clinical psychologists, and nonphysician superintendents of facilities licensed under title 33.

SECTION 127. Tennessee Code Annotated, Section 68-1-1202, is amended by deleting the words "the department of mental health and mental retardation" in subsection (12)(B)(ii) and by substituting instead the words "a department of health employee knowledgeable in mental health and mental retardation services, the departments of".

SECTION 128. Tennessee Code Annotated, Section 68-5-402, is amended by deleting the words and punctuation "the department of mental health and mental retardation".

SECTION 129. Tennessee Code Annotated, Section 68-11-104, is amended by deleting the language "the commissioner of mental health and mental retardation or an employee of such department upon the recommendation of the commissioner, to serve at the pleasure of the governor" in subsection (b)(1) and by substituting the following language therefor:

an employee of the department of health knowledgeable of mental health and mental retardation services

SECTION 130. Tennessee Code Annotated, Section 68-11-104 is further amended by deleting the language "Except for the commissioners of health and mental health and mental retardation, or their appointed employees and" in subsection (d)(2) and by substituting therefor the following words and punctuation:

Except for the commissioner of health or the employees appointed by the commissioner of health,

SECTION 131. Tennessee Code Annotated, Section 68-11-104 is further amended by deleting the language " the commissioner of mental health and mental retardation, or the

employee of such department, appointed pursuant to subdivision (b)(1) is" in the fourth sentence of subsection (d)(3) and by substituting instead the following language:

the employees of such department, appointed pursuant to subdivision (b)(1) are

SECTION 132. Tennessee Code Annotated, Section 68-11-107 amended by deleting the language "The departments of health and mental health and mental retardation shall review each application whose subject matter is within their respective jurisdictions" in subsection (a) and by substituting instead the following words:

The department of health shall review each application whose subject matter is within its jurisdiction

SECTION 133. Tennessee Code Annotated, Section 68-11-108, is amended by deleting the words "or mental health and mental retardation" in subsection (a)(1)(i).

SECTION 134. Tennessee Code Annotated, Section 68-11-108 is further amended by deleting the words "or the department of mental health and mental retardation" in subsection (d).

SECTION 135. Tennessee Code Annotated, Section 68-11-108 is further amended by deleting the words and punctuation ", the department of mental health and mental retardation" in subsection (f).

SECTION 136. Tennessee Code Annotated, Section 68-11-114, is amended by deleting the words "The commissioner of health and mental health and mental retardation" in subsection (a) and by substituting the words "The commissioner of health" therefor.

SECTION 137. Tennessee Code Annotated, Section 68-11-115, is amended by deleting the words "The commissioners of health and mental health and metal retardation" and by substituting instead the words "The commissioner of health".

SECTION 138. Tennessee Code Annotated, Section 68-11-119, is amended by deleting the words "or department of mental health and mental retardation" in subsection (5).

SECTION 139. Tennessee Code Annotated, Section 68-11-201, is amended by deleting the words "of mental health and mental retardation or" in subsection (1).

SECTION 140. Tennessee Code Annotated, Section 68-11-201 is further amended by deleting the words "mental health and mental retardation" in subsection (21)(B) and by substituting instead the word "health".

SECTION 141. Tennessee Code Annotated, Section 68-11-830, is amended by deleting subsections (a) and (b) by renumbering the remaining subsections appropriately.

SECTION 142. Tennessee Code Annotated, Section 68-11-830 is further amended by deleting the language "Before exercising the powers of Sections 68-11-811 -- 68-11-821 and 68-11-826 -- 68-11-829, the commissioner of mental health and mental retardation" in subsection (c) and by substituting instead the words "The department of health".

SECTION 143. Tennessee Code Annotated, Section 68-11-830 is further amended by deleting the words "mental health and mental retardation" in subsection (d)(6)B) and by substituting therefor the word "health".

SECTION 144. Tennessee Code Annotated, Section 68-11-1003, is amended by deleting subsection (4) in its entirety and by redesignating the remaining subsections appropriately.

SECTION 145. Tennessee Code Annotated, Section 68-14-303, is amended by deleting the words "by the department of mental health and mental retardation" in subsection (4) and by substituting instead the words "by the department facilities licensed under title 33".

SECTION 146. Tennessee Code Annotated, Section 68-24-102, is amended by deleting the words "mental health and mental retardation or" in subsection (11) and by substituting instead the words "health under title 33".

SECTION 147. Tennessee Code Annotated, Section 68-24-504, is amended by deleting the words "by the department of mental health and mental retardation" in subsection (1) and by

substituting therefor the words "under title 33, chapter 2, part 5, or under title 68, chapter 11, part 2".

SECTION 148. Tennessee Code Annotated, Section 68-24-504 is further amended by deleting the word "by the department of mental health and mental retardation" in subsection (3) and by substituting instead the words "under title 33, chapter 2, part 5 or title 68, chapter 11, part 2".

SECTION 149. Tennessee Code Annotated, Section 68-55-102, is amended by deleting subsection (a)(2)(B) in its entirety and by substituting instead the following:

One (1) member representing the department of health who is knowledgeable about traumatic brain injury shall be selected from up to three (3) nominees of the department who are knowledgeable about matters of mental health and mental retardation.

SECTION 150. Tennessee Code Annotated, Section 68-142-103, is amended by deleting the words "mental health and mental retardation" in subsection (7) and by substituting instead the words " the commissioner of health's designee who shall be knowledgeable in matters of mental health and mental retardation".

SECTION 151. Tennessee Code Annotated, Section 71-1-112, is amended by deleting the words " the department of mental health and mental retardation" in the last sentence of subsection (b)(3) and by substituting therefor the words "representatives from the department of health who are knowledgeable about matters of mental health and mental retardation".

SECTION 152. Tennessee Code Annotated, Section 71-2-104, is amended by deleting the words "and mental health and mental retardation" in subsection (c)(1)(G).

SECTION 153. Tennessee Code Annotated, Section 71-3-533, is amended by deleting the words "mental health/mental retardation" in subsection (a) and by substituting instead the word "health".

SECTION 154. Tennessee Code Annotated, Section 71-3-533 is further amended by deleting the words "mental health and mental retardation" in subsection (a)(1) and by substituting therefor the word "health".

SECTION 155. Tennessee Code Annotated, Section 71-3-533 is further amended by deleting the words "mental health and mental retardation" in subsection (2)(b) and by substituting instead the word "health".

SECTION 156. Tennessee Code Annotated, Section 71-6-103, is amended by deleting the words "by the department of mental health and mental retardation" in the last sentence of subsection (c) and by substituting instead the words "under title 33, chapter 2, part 5".

SECTION 157. Tennessee Code Annotated, Section 71-6-103 is further amended by deleting the words "by the department of mental health and mental retardation" in the last line of subsection (d)(2) and by substituting instead the words "under title 33, chapter 2, part 5".

SECTION 158. Tennessee Code Annotated, Section 71-6-107, is amended by deleting the words "mental health and mental retardation" in subsection (5)(A) and by substituting instead the word "health".

SECTION 159. Tennessee Code Annotated, Section 71-6-113, is amended by deleting the words "the department of mental health and mental retardation and" in subsection (a).

SECTION 160. Tennessee Code Annotated, Section 71-6-113 is further amended by deleting the words "mental health and mental retardation" in subsection (b) and by substituting therefor the word "health".

SECTION 161. This act shall take effect immediately upon passage, the public welfare requiring it.